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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,833

04/11/2007

Gabor Fazekas

7807-101XX

5383

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EXAMINER

JACYNA, J CASIMER

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

08/17/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/586,833	Applicant(s) FAZEKAS ET AL.	
	Examiner J. Casimer Jacyna	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-15 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/11/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election without traverse of group 1, figures 1 and 2 in the reply filed on 7/29/2010 is acknowledged.
2. Claims 4 and 16-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/29/2010. Claims 16-18 call for a spring element 11, a safety plate 12 and a plug 13 which elements are only found in the non-elected figures 3 and 4. Claims 19 and 20 depend from claim 18.
3. The drawings are objected to because they are shaded photographs. Black pen and ink drawings are required. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

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corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The abstract of the disclosure is objected to because it's length exceeds 150 words. Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities: The specification lacks the headings noted in MPEP 608.01(a).

Appropriate correction is required.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-3, 5-9, 11-15 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, the phrase " particularly for" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2, 5-9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Morane et al. 4,978,035. Morane discloses an aerosol can adapter including a receiving device 63, a conveying tube 71 shown in the figures with an

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annular groove that snaps onto a trunk 5, a handle 53, and holding means 62 with the receiving device 63 flexibly integrated into the adaptor and flexibly connected to the conveying tube with bellows 7 and with the shoulder of the conveying tube at the base of 71 where bellows 7 begin being vertically displaced with respect to the receiving device 63 when actuated as shown in figure 3. In regard to claims 5-7 bellows 7 and sidewall 61 form a hollow cylinder of the receiving device with valve disk button 41 projecting into the cylinder and wall 61 concentrically embracing and sealing the valve disk 3 which supports and holds the valve 4. In regard to claims 11 and 12, the bellows 7 can also be considered a flexible membrane as claimed which vertically slide toward and away from the valve disk.

10. Claims 1-3, 5-9, 11, 12 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Lasserre et al. 7,017,785. Lasserre discloses an aerosol can adapter including a receiving device 11, a conveying tube 14 which connects to a trunk 24, a handle 21, and two (see claim 3) snap fit holding means 13, 111 as part of the receiving device 11 with the receiving device flexibly integrated into the adaptor and flexibly connected to the conveying tube 14 with flexible membrane 12 (see claim 12) and with the shoulder 14a of the conveying tube begin being vertically displaced with respect to the receiving device 11 when actuated as shown in figure 7. In regard to claims 5-7 the receiving device concentrically embraces and seals the valve disk 32 at 11 and 130. In regard to claim 21, 17 attaches to the aerosol can 30.

11. Claims 1, 2, 5-9, 11-15 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Wells et al. 5,765,601. The embodiment of figure 3B of Wells discloses

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an aerosol can adapter including a receiving device 39 which surrounds 21, a conveying tube 52 which connects to a trunk 19, a handle as are the tiered sidewalls that support the flexible membrane actuator 36 (see claim 12) that surrounds and is concentric with the longitudinal axis 18, and snap fit holding means 35, with the receiving device 39 flexibly integrated into the adaptor and flexibly connected to the conveying tube 52 and the holding means 35 via the flexible membrane or corrugated webs 36 that emanate from and surround the longitudinal axis 18 in figure 3B. In regard to claim 15, as defined in claims 1 and 13, the flexible connection to the holding means 35 and the adapter which is actuator and the flexible membrane or web of unrelated claims 11 and 14, is also a fastening element that fastens receiving device 39 to the tiered handle concentrically surrounding the corrugated flexible membrane or web. In regard to claim 21, 66 attaches to the adapter to the aerosol can 12.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Mon. thru Fri. 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Casimer Jacyna/
Primary Examiner, Art Unit 3754